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What's Up
With
The Law?

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The Youth Authority And The Law

BY DAN DOYLE

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There has been considerable change in the law dealing with correctional practices in the past few years and additional changes are in the offing. The author summarizes what has happened in the courts, what effects these changes have wrought, and what can be expected in the months and years ahead.

"In a thousand pounds of law, there's not an ounce of love"
—olde proverb

The past several years have witnessed substantial changes in the manner in which the Youth Authority conducts its particular portion of the public's business. There is certainly no reason to believe that such changes are about to cease. On the contrary, while the judiciary and the Legislature may redefine and redirect their activities from time to time, it is most unlikely that an activity which is primarily involved in the imprisonment of human beings and the protection of the public will ever be left alone, to do its "thing", without interference and/or pressure from forces from without.

Due Process

Due process is the descriptive label for the procedural mechanisms that are utilized in the making of decisions that have a substantial impact on the individuals who are the subjects of those decisions. In its simplest form, and as it is used within the correctional world, due process generally requires notice to the subject of the action which may be taken and of the basis for such potential action, an opportunity to be heard and to refute adverse evidence, an opportunity to question adverse witnesses, a written decision which includes the reasons for the decision, and, under some circumstances, the right to be represented by a lawyer. As the courts have pointed out, the extent of the due process required is in approximate relation to the degree of deprivation that may be suffered by the subject as a result of the decision.

By and large, the Legislature has not itself seen fit to require particular due process protections as a matter of statutory law. The major impetus for the development of due process systems within the Youth Authority has, therefore, come from the judiciary and from management of the department.

The opening salvo in due process litigation, at least from our point of view, was the opinion of the United States Supreme Court in *Morrissey v. Brewer,* 408 U.S. 471 (1972). That case established the basic requirements of notice, confrontation, and written decision as to parolees. Approximately one year later, in *Gagnon v. Scarpelli,* 411 U.S. 778 (1973), the United

States Supreme Court extended to parolees facing revocation a right to counsel that is conditioned upon such factors as the complexity of the case, the perceived ability of the parolee to represent himself, whether there is a "colorable" denial, and whether there are matters in mitigation that need to be argued. The California Supreme Court, in subsequent cases, has elaborated upon and extended the *Morrissey* and *Gagnon* protections to the rescission of parole dates. The Youth Authority is presently involved in litigation regarding the due process protections that must accompany the extension of a "continuance" (or parole consideration) date.

While the appellate courts were redefining the due process requirements regarding parole, the Youth Authority was developing its own internal due process mechanisms to deal with institutional behavior. Entitled the "Disciplinary Decision Making System" (DDMS), the system follows the same basic due process principles as required under *Morrissey, et al,* with the exception of the conditional right to representation by counsel. In 1974, the U.S. Supreme Court dealt with the question of due process in disciplinary matters in the case of *Wolff v. McDonnell,* 418 U.S. 539 (1974), a case involving loss of "good time" and "solitary" confinement. Fortunately, the system previously developed and implemented by the Youth Authority met, if not surpassed, all but a few minor aspects of *Wolff* decision. Again, the Youth Authority continues to be involved in litigation concerning disciplinary due process, particularly regarding the legitimate use of the results of such disciplinary hearings as the basis of Youth Authority Board decision-making regarding readiness for parole.

In my judgment, the courts have gone about as far as they will in terms of major due process innovations. The emphasis, instead, has and will be directed to the application of previously identified due process requirements to individual cases and circumstances. We would be well advised, therefore, to regard the next few years as a time for refinement of our systems, rather than as a time of further major change.

Wards' Rights

In this area, as in that concerning due process protections, management initiative has coupled with judicial intervention in other jurisdictions to develop present Youth Authority policies regarding such traditional prisoner's rights subjects as diet, religion, mail, access to the courts, dress, and other conditions of confinement. The criteria that have emerged from the courts, against which we test present and proposed policies, are twofold. First, that prisoners, including Youth Authority wards, are entitled to retain all rights except those which must be curtailed in order to fulfill legitimate societal objectives (such as security, rehabilitation, and safety), and, second, that the extent of the curtailment must be no more than is necessary to accomplish those objectives.

In the area of prisoners' rights, the United States Supreme Court has been the source of most of the case law, quite often in response to lower court decisions involving the California Department of Corrections. In response to such opinions, the Youth Authority has attempted to identify and articulate the principles set forth by the opinions, has made its own

judgments as to the applicability of such opinions to our responsibilities under the Youth Authority Act, and has taken appropriate action to implement such principles.

In recent years, the courts have increasingly placed on the inmate the responsibility to have attempted to resolve the problem before seeking judicial intervention. The Youth Authority, through the prior development and implementation of the ward grievance system, has provided a nationally recognized method of dealing with ward complaints in a manner which is designed to solve the problem without the necessity of judicial involvement, which attempts to provide the ward with the feeling that his complaints are being dealt with in a relatively fair and objective manner, and, if all else has failed, at least gives the department an opportunity to solidify its position and support for such position prior to presentation of the issue to the courts. Such grievance procedure, at the request of the department, was recently codified as Welfare & Institutions Code Section 1766.5. The Youth Authority Board, via its appeal system, has provided a mechanism which, although not as formalized or elaborate as the ward grievance system, substantially accomplishes the same objectives.

As in regard to due process concerns, it appears that the courts have dealt with the major areas of inmates' rights, and that future litigation will, therefore, deal with individual case applications rather than with major issues. The primary exception to this conclusion is in regard to the so-called "right to treatment." That is, to the principle that the state, having sent the youthful offender away to be treated, rehabilitated and otherwise cleansed of sin, has the responsibility and obligation to provide the means to accomplish such ends. While this issue has been extensively litigated in some other states, it has yet to be dealt with in a vigorous fashion by the California courts. It is a logical next step.

Equal Protection

Equal protection challenges to Youth Authority practices and policies were not, prior to 1976, of great significance. Cases generally dealt with peripheral issues and, in most instances, it was successfully maintained that the distinctions between treatment of Youth Authority wards and that of older adults was justified due to the statutory emphasis on rehabilitation. In 1976, however, the Legislature and the California Supreme Court took action which had a massive impact on the traditional manner, if not the philosophy, of Youth Authority treatment of young people committed to its charge.

In the case of *People v. Olivas,* 17 Cal.3d 236 (1976), the California Supreme Court dealt with an appeal of a young adult committed for a misdemeanor who argued that he should not be subject to a period of control by the Youth Authority in excess of the jail sentence that could have been imposed for the same offense. The court, while noting that rehabilitation continues to be a worthwhile and ideal objective, rejected such as justification for potentially disparate periods of control. In a later case *(In re Sandoval,* 70 CA3d 73 (1977)), the principle of *Olivas* was specifically extended to felony offense adult commitments. Pursuant to

Olivas, we may no longer maintain control over a ward for a period in excess of the adult punishment for the crime.

At the same time that the appellate courts were limiting the Youth Authority's period of control over young adults, the Legislature was accomplishing substantially the same result with respect to juveniles by limiting the juvenile commitment's potential period of physical confinement by the Youth Authority to the maximum term to which an adult could be subjected for the same offense. The legislative policy was established in Welfare & Institutions Code Sections 726 and 731 (as amended by AB 3121 (Ch. 1071, Stats. 1976) and more recently further amended by AB 1756 (Ch. 1236, Stats. 1977)), and has been, and will no doubt continue to be, the subject of extensive interpretive litigation.

The difficulty experienced by the Youth Authority in implementing the above would have been reasonably tolerable had the Legislature not seen fit during the 1976 session also to enact the Determinate Sentencing Act of 1976 (also known as SB 42, Chap. 1139, Stats. 1976). By nature of the rather broad principles set forth in *Olivas* and in Welfare & Institutions Code Sections 726 and 731, the myriad complexities and uncertainties of SB 42 were incorporated by implication into the Juvenile Court Law and the Youth Authority Act. Certainly, in the long run, the Youth Authority and the juvenile justice system will adapt to and be able to handle these difficulties. In the meantime, however, and particularly during the present transition period, matters are confused, to say the least.

As in other areas of substance, the Youth Authority continues to be involved in litigation concerning equal protection issues, particularly as to the applicability of credit for time served statutes to periods of time spent prior to release on parole.

The judiciary and, for that matter, the Legislature, still have a fertile field to plow in this area. Notwithstanding what may be perceived to be the attitude of the United States Supreme Court, the California Supreme Court has shown little reluctance to apply appropriate provisions of the state constitution to deal with situations in a manner arguably different from what the U.S. Supreme Court may have done under the U.S. Constitution. Particularly in view of the recent appointments to the court, there is little reason to believe that it will be reluctant to deal with issues such as disparate treatment of juveniles, denial of statutory "good time", and credit for time served, to name just a few. Successful defense against such challenges will require, at a minimum, that those charged with responsibility for management of the juvenile and youthful adult offender systems (or, to be in vogue, "nonsystems") be prepared to demonstrate that there are compelling state interests in maintaining such differential treatment.

Victim's Rights

Perhaps the most interesting, from a legal point of view, and threatening, from the correctional practioner's point of view, is the newly emerging field of victim's lawsuits against correctional authorities for acts of wards and parolees. While the case law has not yet been extended to the point of holding paroling authorities accountable for all acts of parolees, there is no shortage of lawyers or lawsuits attempting to accomplish that end.

Now, at least, the law appears to be that while the state may not be held liable based simply on a decision to parole, it will be held financially liable if there is negligence in parole supervision which is the proximate cause of an injury. While there are several cases pending, with varying degrees of potential liability, only one such suit has actually gone to completion in recent years. It resulted in a settlement for $225,000 for injuries suffered by the victim. Most recently, a Board of Control claim seeking $1 million in damages has been filed by the survivors of a victim of a parolee's acts alleging, among other causes of action, "failure to rehabilitate."

There are several difficulties that face the Youth Authority in this area. The first is the reality that juries are not inclined to be terribly sympathetic to the problems of the Youth Authority in supervising parolees when they are deciding whether to place the burden of a parolee's violent act on the victim or on the state general fund. Second, and similar to what society has witnessed as a result of medical malpractice litigation, the increased potentiality of judgments against the state will, in all likelihood, result in the increased practice of "defensive" decision-making and supervision. Obviously, the state can minimize its liability exposure by minimizing the risk of parolees committing further crimes. While increased supervision and more effective programs may accomplish this desirable result, it is not unlikely that the more appealing way to deal with the risk element is to be more cautious in releasing people to parole. This could result in increased institutional population as well as in the retention of some people in institutions who could function perfectly well on parole. Third, of course, is the increased cost to state government and, as a result thereof, the decreased reception with which other elements of state government will respond to the desirability of rehabilitation as a continued worthwhile objective.

At the minimum, the emergence of the "victims' rights" lawsuits should be regarded by those responsible for the operation of the system as a clue that promises which cannot be kept should not be made. In other words, to the extent that we assert that we can "rehabilitate," when in fact we may have neither the resources nor the abilities to do so, we set a standard for ourselves which, if not met, fosters lawsuits by the righteously upset victims of our wards.[1]

Conclusion

Little of the above can be characterized as good news for the correctional establishment, particularly in this era of limited resources and lowered expectations. Of course, if there was no bad news, there would be little need for lawyers. Personal considerations aside, however, and irrespective of how we all may view future legal prospects for the Youth Authority, it would be most illogical to seriously suppose or propose that there will ever be a return to the good old days (whatever they may have been). I suggest, instead, that the forces and currents of the law be regarded as opportunities, as potential allies, if you will, in the accomplishment of better things for the public, to whom we are responsible, and the wards, for whom we are responsible. This is a point that has been well taken by other interests in society. It is time that we did the same.

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[1] See following article by Claude T. Mangrum

LIABILITY FOR CORRECTIONAL MALPRACTICE *

By Claude T. Mangrum

Mr. Mangrum is director of the adult services division of the San Bernardino County Probation Department. He is also currently president of the California Probation, Parole and Correctional Association.

With the possibility of liability actions for correctional malpractice becoming ever more real, the author provides background information on this issue along with some advice for practitioners: Do not promise what cannot be delivered and perform the corrections function with reasonable skill.

There has been considerable concern and consternation in recent years over the many problems of medical malpractice. It appears to be a growing phenomenon which has resulted in skyrocketing malpractice insurance premiums and consequent increases in the costs of health care services. In response, some doctors have chosen to simply drop insurance coverage while others have tried to find safer alternatives, including formation of new insurance "cooperatives," reaching compromises with insuring agencies and transferring their practice from private offices to hospital clinics without private patients. In some places federal and state governmental bodies have become involved in attempts to find workable solutions to the problem. Meanwhile, the basic controversy has not been resolved, the debate goes on, publicity and anxieties are national in scope and costs to the consumer continue their upward spiral.

Medical malpractice is not the only liability issue coming to the forefront, however. In a recent meeting of the American Bar Association, much attention, debate and discussion were focused on malpractice suits filed against attorneys by other attorneys. For many years, law enforcement personnel have carried false arrest insurance as financial protection from liability for erroneous and possibly harmful actions in the course of their work. Social workers and counselors, especially those in private agencies or private practice, have also paid for malpractice insurance coverage as protection against suits for injurious errors in their activity. Administrators of all types at all levels have increasingly been challenged for actions toward persons under their jurisdiction in violation of civil rights and have been held liable for money damages as a result. Many of these groups, particularly doctors, attorneys and administrators, are among our most respected professional groups; yet their judgment and competence of performance have more and more come under scrutiny, question and criticism. Given this condition, can correctional workers be far behind?

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* The author extends his thanks to Dan Doyle, chief legal counsel of the Youth Authority, for his assistance in delineating the legal issues discussed in this article. This article is preceded by another one by Mr. Doyle on another legal subject.

What is meant by malpractice liability? Without getting too legalistic or technical, but recognizing that this is a very complex area, both terms can be defined so that the basic thrust of their meanings are simply understood. One who is liable is one who is justly and legally responsible or answerable: [1] thus, liability is a concept which has to do with (1) an *obligation* for performance at a reasonable level, and (2) *accountability* for whether or not that level of performance is attained and maintained. Malpractice has to do with improper, injurious or negligent performance in one's professional position; it is professional misconduct or unreasonable lack of skill or fidelity in the performance of one's duties. [2] Taken together in relation to the corrections practitioner, these concepts have some very important implications which must be seriously considered.

Correctional Obligation

There would probably be little, if any, argument among corrections personnel about the "obligation" of the corrections practitioner to perform his tasks at a level which provides protection from reasonably foreseeable risks of harm or injury by the offender to others. The offender is placed under the jurisdiction of the correctional agency and its staff so that someone is specifically responsible to do something about changing his injurious conduct. This means that the practitioner is obligated to take the kinds of action designed to best implement those necessary changes. Such actions may involve incarceration or other forms of restraint, as well as various forms of treatment directed toward rehabilitation. This is not the place to discuss punishment vs. treatment or the various methods which may be used to bring about the desired behavioral change; that would lead us too far afield from the central point to be made here—that is, the practitioner's *obligation* for reasonable and proper performance of his duties.

When it comes to defining "reasonable level of performance," however, there is considerably less agreement as to what is meant because this gets more into philosophy and opinion and is not so clear-cut as the idea of obligation. Here, again, unless we are cautious, we are likely to become entangled in discussions and arguments which cannot be resolved and which lead nowhere. Perhaps the definition of reasonable performance level can be made easier if we focus on a basic principle than if we were to try to cover all the details. Simply stated, the principle is: corrections must be able to do what it claims it can do to change the offender's injurious behavior or its practitioners become liable for the failure. For many years the public has been led to believe, through the glowing promises made on behalf of corrections philosophy and processes, that offenders could be rehabilitated if only sufficient facilities, personnel and money were provided. The public has now come to expect fulfillment of these promises, but corrections has not been able to keep them. Despite defensive protestations that corrections has not properly and adequately

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[1] *Readers Digest Great Encyclopedic Dictionary,* Third Edition, 1969, p. 779.
[2] Black, Henry Campbell, *Black's Law Dictionary,* Revised Fourth Edition, St. Paul, Minn., West Publishing Co., 1968, p. 1111.

been given the opportunity to apply its processes, we cannot escape the implications of not accomplishing what has been promised.

It is here that we come face to face with accountability; that is, the practitioner may become liable for his failure to adequately discharge his obligation. Of course, the reasons for the failure are an integral part of the concept of liability. If the failure was the result of factors beyond the control of the practitioner, he is accountable to explain clearly why he could not carry out his obligations. If, however, the reasons were within his control—such as neglect of duty, failure to develop the necessary skills because of indifference, actions contrary to specific legal mandates, errors of judgment in areas where he reasonably should have known better, lack of proper care and caution when he could reasonably foresee the potential for harmful consequences, promising more than he knows he can do, or other such factors—the practitioner becomes liable for the failure which stems from the improper discharge of his duties.

The improper discharge of duties is, as has already been noted, what constitutes malpractice; but it is the result of malpractice which is of greatest importance. Fortunately, improper performance does not always result in harmful consequences to either the client or to others at his hands. But many of the consequences of malpractice are very serious and this is where we encounter liability. These results will be addressed more fully in the comments to follow, the major part of which will deal with different kinds of liability as the result of malpractice: moral, civil and criminal liability. A few additional observations will then be made about appropriate precautions and defensive actions.

Moral Liability

Corrections practitioners, as citizens of their respective communities, have a moral obligation to be alert to the well-being of all citizens, offenders and non-offenders alike. A community is in serious danger of disintegration when a sizeable proportion of its citizens care little about the safety, security and rights of others. It is important for the stability of any group to have the leavening influence of members who care what happens to it and are willing to invest some of their time and energy to insure its smooth functioning. Those members of the group who are in positions to know more, do more and contribute more should be the most alert to group and individual welfare. In many instances, corrections practitioners occupy such positions.

Obligation accrues also because of the professional position of the practitioner. As a public servant supported by tax dollars, the corrections professional has obligations to the community over and above that of private citizens. Because he has been given the specific responsibility to work on behalf of the community with offenders, the corrections practitioner is in a rather unique position to exercise authority, discretion and sound judgment over the actions of offenders. This kind of responsibility, by definition, requires one to be more sensitive to the potentially harmful consequences of the actions of others and to be fully aware of how his own attitudes, decisions and actions can moderate or even negate those offender actions. It demands responsible attitudes and actions for the welfare of anyone who could be adversely affected by the behavior of a correctional client.

The potential harm of a client's actions include things other than the obvious direct threats of violent behavior. By his actions, the client can also do psychological and economic damage to others, including his own family and himself. The practitioner must be ever alert to these possibilities, which can be just as traumatic as some sort of violent action. The corrections worker is also in a position of great power over the lives of others—offenders and non-offenders alike—as he can deprive an individual of his liberty by incarceration, deprive a family of its usual support, impact upon the years of an individual's lifetime, set the stage for some innocent person to be harmed, or other impingement on the lives and welfare of others through his decisions to act or to refrain from action. This sort of power and influence over others is a very serious moral responsibility which, if not properly carried out, subjects the practitioner to heavy moral, if not other kinds, of liability.

Civil Liability

In the realm of civil liability we can deal with issues that are far more tangible than those discussed in relation to moral liability. Here, we can turn to several Appellate Court decisions which deal with specific issues and responsibilities that directly relate to corrections personnel; in fact, some of these cases grew out of corrections malpractice. There are several civil liability cases which deal with noncorrectional personnel actions but which have some relevance for the present discussion because they either lend support to decisions dealing directly with corrections practice or they may logically be extended to this field.

Courts have long used such terms as "due care," "due and proper care" and "due and reasonable care" to denote the degree of care demanded by the nature of the circumstances, as seen by a reasonable and prudent man, for the prevention of harm or injury to another; in other words, the absence of negligence. [3] It may require extraordinary care in some circumstances which are particularly hazardous. The need to exercise reasonable care in order to prevent harm gives rise to the duty of due care, the discharge of which will necessarily vary with differing circumstances. It is to this "duty of due care" [4] that the comments regarding responsibilities of corrections practitioners are directed. They deal with two specific areas of which every practitioner should be aware and to which each should give thoughtful attention.

The first area has to do with the right to treatment concept. This is an idea which has been bandied about for over a decade and still occasionally resurfaces. It is also one which few corrections workers clearly understand and to which even fewer have tried to accommodate their practices. Federal Courts in several jurisdictions, at both District and Circuit Court of Appeals levels, have recognized the constitutional right of an individual committed to a corrections facility to "treatment" or to "rehabilitation." [5] These cases have most often involved juveniles and

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[3] Black, ibid, p. 589.

[4] *Tarasoff et al v. Regents of University of California* (1976) 13 Cal. 3d, at 183.

[5] See *Morales v. Turman*, 16 Crh 2050, USDC E Tex. 1974; *Creek v. Stone*, 379 F.2d 106 (D.C. Cir. 1967); and *In re Elmore*, 382 F.2d 125 (D.C. Cir. 1967). Applicable cases dealing with the same "right to treatment" issue for persons confined in mental hospitals include *Rouse v. Cameron*, 373 F.2d 451 (D.C. Cir. 1966) and *O'Connor v. Donaldson*, 493 F.2d 507 (CA5 1974).

have dealt specifically with treatment or lack of it for persons confined in institutions for that purpose. However, some of the basic principles involved have parallels in correctional treatment of adults and in non-institutional, or "on-the-street," settings as well.

The basic concept of the "right to treatment" is succinctly described thus:

"The 'right to treatment' emerges as the alternative to the individual's right to be released. The individual must be either treated or released. The right to treatment is based theoretically on the state's authority to confine for treatment under its *parens patriae* power. If no adequate treatment is provided, continued confinement would seem to be prohibited. Consequently, the right to treatment is implied from the individual's subsequent right to be released." [6]

The U.S. Court of Appeals, in a case of an individual confined in a mental hospital for treatment, raised another aspect of this issue:

"(W)here, . . ., the rationale for confinement is the '*parens patriae*' rationale that the patient is in need of treatment, the due process clause requires that minimally adequate treatment be in fact provided . . . . To deprive any citizen of his or her liberty upon the altruistic theory that the confinement is for humane therapeutic reasons and then fail to provide adequate treatment violates the very fundamentals of due process." [7]

Thus, availability of treatment is not the only issue; the adequacy of the treatment must also be considered. [8] This gets directly at the issue of concern to us here, which is: corrections has long promised to take offenders committed to its jurisdiction and rehabilitate them through the treatment methods it has developed. It is a matter of record that a high percentage of people subjected to these correctional processes continue to violate the law and many are discovered in this illegal activity. By no stretch of the imagination can we honestly say that corrections has achieved its aim of "rehabilitating" the majority of its clients.

The "duty of due care" requires that we either be able to deliver on our promises of rehabilitation or adjust those promises to a level which is actually attainable. If this is not done, does not the corrections practitioner make himself vulnerable to liability in that he has tried to function without reasonable skill in the performance of his duties? If the imposition of penal sanctions is not for treatment purposes, as has been traditionally claimed, then there must be a different articulation of purpose—for punishment or deterrence or whatever it may be. At least this would be honest and realistic and corrections would not be claiming to do what it is not and cannot. Failure to accomplish the rehabilitation promised, whether due to exaggerated claims which lead others to expect too much or to negligence in employment of the skills which are available, may subject the practitioner to potential charges of malpractice.

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[6] Renn, Donna E., "The Right to Treatment and the Juvenile." *Crime and Delinquency*, Vol. 19, No. 4, October 1973, p. 477.

[7] *O'Connor v. Donaldson*, supra note 5, at 521.

[8] See *Rouse v. Cameron*, supra note 5.

The second area has to do with the responsibility to provide a reasonable degree of protection to the community through the exercise of due care in the potential violence of correctional clients when such potential is known or reasonably should be known. There are several case-law decisions which specifically address this issue, including the following: A deputy sheriff was held liable for failure to warn a victim, after promising to do so, of the release of a dangerous prisoner; [9] the court upheld a suit against the state for the failure of the parole agent to warn foster parents of the homicidal tendencies of its ward placed in their home; [10] a cause of action was sustained against a therapist (psychologist) and a psychiatrist for failure to warn a victim or her parents of a threat made on her life by a patient; [11] and both a psychiatrist and the probation officer were found negligent in the release of a probationer from a hospital, without approval of the committing court, when he later killed the victim.[12]

All of these cases held that the defendants had a responsibility to protect the public from the reasonably foreseeable risk of harm at the hands of someone under their jurisdiction. Failure to exercise reasonable care can result in a finding of negligence and an award of damages against those to whom the individual was committed for care and supervision. While these decisions recognize the difficulties often involved in predicting the violent propensities of a given individual, the findings revolve around failure to exercise reasonable care to protect the foreseeable victim when there is a specific determination of the violence potential or, under applicable professional standards, the potential reasonably should have been determined. The issue is not the infallibility of the practitioner, but the duty to exercise reasonable care based on the demands of the circumstances.

In many respects the corrections practitioner is in a unique position in this regard. As a public official dealing with law violators—who, by legal definition, represent some threat to others—he has a particular responsibility to be alert and diligent to protect the public from further depredations from known sources of potential harm. In fact, the legal authority delegated to him to carry out his functions is specifically for this very purpose. In his quest for the rehabilitative ideal and his efforts to assist the offender, the corrections practitioner must never lose sight of his great responsibilities to those who have been or might become victims of the offender's actions. To do so has serious potential consequences for others and may result in a malpractice charge for the practitioner.

Criminal Liability

This is also a complex area for discussion because, while the responsibilities involved are clear, the nature and demands of official duties often shield them from view and make improper acts less than apparent. Yet, criminal liability does exist. For example, recent laws providing more individual privacy—even to convicted offenders—make it a criminal offense for persons with a legitimate access to that information to pass it on to anyone without right of access. Corrections practitioners have a

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[9] *Morgan v. Yuba County,* (1964) 230 Cal. App. 2d 938.
[10] *Johnson v. State of California,* (1969) 69 Cal 2d 782.
[11] *Tarasoff,* supra, note 4.
[12] *Semler v. Psychiatric Institute of Washington, D.C.,* 538 F.2d 121 (4th Cir. 1976).

great deal of potentially damaging information about offenders and unauthorized release of that data is prohibited. In California such action is a misdemeanor punishable by six months in jail and/or a $500 fine.[13]

On the other hand, California law also makes it a criminal offense to have knowledge of certain things and fail to report it as required or otherwise officially act on it. There are, for example, legal requirements for certain groups of persons having knowledge of child abuse to report it to the appropriate authorities for action.[14] Although these persons are not usually corrections practitioners and these two examples are not exactly at opposite ends of the continuum, they do illustrate the sort of dilemma that might develop and cause some problems for the individual in trying to properly discharge his duties. The need for confidentiality in the patient-therapist relationship in order to effectuate treatment and the opposing duty for the safety of a foreseeable victim must be appropriately balanced. One civil case held that the safety of the possible victim outweighs the potential disability to the patient.[15]

Another facet of criminal liability has to do with deprivation of legal and constitutional rights. Deprivation of an arrested person's rights, as defined in the applicable section, by a public officer is a misdemeanor under California law;[16] and the Federal Civil Rights Act provides both civil and criminal remedies to persons whose rights under the federal Constitution or federal laws are violated by a public officer acting under "color of law," [17] which is generally the performance of an act as an officer rather than a private citizen. The existence of such laws and the philosophy underlying them are both indicative of the basic principle that authority or position as a public official must not be used unfairly or unnecessarily against any person. This also indicates that one will not be allowed to hide behind the cloak of official action and thus be immune to challenge. It means the abuse of position by a public official leaves him vulnerable to the remedies provided.

Conclusion

There is no way to predict accurately what the future holds for the corrections practitioner with regard to possible malpractice liability. But some pertinent observations, based on logical considerations, can be made. For example, there has been an increase in civil suits filed against law enforcement personnel over the past several years and, while the amounts of damages awarded are not usually considered large, it appears "that the number of such cases being decided against the officer or the agency he represents is increasing." [18] Factors suggested as contributing to this increase are an increase in crime rates, growing public awareness of individual rights and the gradual abrogation of the doctrine of sovereign immunity.[19]

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[13] California Penal Code section 11142.
[14] California Penal Code section 11161.5.
[15] *Tarasoff*, supra, at 185.
[16] California Penal Code section 851.5.
[17] 42 USC 1983
[18] Grande, Dolores S., "Tort Liability and the Law Enforcement Profession," *Law Enforcement News*, Vol. 3, No. 4, February 15, 1977, p. 11.
[19] Ibid, p. 11

The corrections practitioner, like the law enforcement officer, is sworn to uphold the law. This often requires him to take actions which make him particularly vulnerable. It is, for example, necessary for the corrections worker to make frequent use of his legal authority in the ordinary discharge of his duties; but if he should overstep the bounds of that authority, he leaves himself unguarded. He often is required to make arrests, but if he uses excessive or unnecessary force or arrests without reasonable cause, he would appear to be as liable as the police officer in the same situation. All this would indicate that there will be more and more legal control—either legislatively or through judicial decisions—over corrections practice and the possible malpractice of corrections workers. After all, if the police, lawyers, social workers and doctors are increasingly subjected to liability suits, why not the corrections practitioner?

How, then, can one prepare for this eventuality? The answer is obvious: do not promise what cannot be delivered; and perform the corrections functions with reasonable skill. The best defense against malpractice liability is to consistently do one's job properly. This involves knowing what to do and how to do it. In the *Semler* case, for example, the court held that one of the crucial issues was that the probation officer and the doctor released the offender from the hospital without referring the decision to the committing judge for approval. [20] Doing one's job properly also involves the exercise of skill in being aware of potential danger and, when convinced it may be imminent, taking action to prevent that danger. If the corrections practitioner performs his duties with the highest level of skill possible for him, is alert to the signs of potential danger and acts to prevent that danger or at least to warn others of it, he is not likely to become the object of a malpractice action. If he does not act responsibly and reasonably in these areas, however, he is very vulnerable and is asking for trouble.

The standards of professional performance by which the practitioner is to be judged by his agency, as part of its determination that the job is or is not being done properly, must receive careful attention in the context of the malpractice issue. Administrative policies and requirements must be realistic and performance standards must be attainable. It sounds very good at budget time for the agency to announce its high standards and articulate its great expectations for success. However, if these ideals are not realistically attainable within the realm of its resources and expertise, such articulations simply ask for trouble. It is good to set and try to maintain high standards of performance, so long as they are attainable; but, one must remember that these standards then become the expected level of performance, deviation from which makes the agency and the practitioner highly vulnerable to charges of malpractice.

In some respects this discussion could lead some practitioners to conclude that the risks are so great that, perhaps, the best strategy is to announce nothing and attempt little. Such thoughts should be banished, because the corrections practitioner certainly has ethical and professional obligations to prepare for and to practice at the highest level

[20] *Semler*, supra at 125.

allowed by his abilities. Parts of the preceding discussion are specifically directed at these obligations, so they need not be repeated.

It is also important for the practitioner he be aware of legal requirements for the public entity by which he is employed to provide for the defense of an employee for any civil action or proceeding brought against him on account of an act or omission in the scope of his employment.[21] The provision of a defense is not required if the proceedings brought against him involved an act or omission not within the scope of his employment, or he acted or failed to act because of actual fraud, corruption or actual malice, or such defense would create a conflict of interest between the public entity and its employee.[22] Thus, while the practitioner does enjoy some protection and is not left dangling out there all alone, it still behooves him to conduct himself according to appropriately established standards of performance.

Both the corrections agency and the practitioner have very important stakes in the determination, articulation and implementation of performance standards. They must work together to insure the most realistic level of service to their clientele, which includes both the general public and the individual offender. Anything less than this is almost certain to create malpractice problems for the agency and the practitioner. Corrections personnel have enough obstacles in the path of doing their job; certainly, they must be very diligent to avoid creation of more.

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[21] Government Code, section 995
[22] Government Code, section 995.2

CARE IS THE MAGIC INGREDIENT

BY ROB WILSON

Mr. Wilson is a staff writer of Corrections Magazine

Pearl S. West recently completed her first year as director of the California Youth Authority. This article is reprinted with permission from the June, 1977, issue of Corrections Magazine, 801 Second Ave., New York, NY 10017

One weekend in 1956, Pearl S. West and her husband took their three young sons on an unusual trip. Without saying where they were headed, they drove 40 miles across the center of California to Preston School—a California Youth Authority institution which then housed 600 of the state's toughest juvenile delinquents.

As the school's huge iron gates clanged shut behind them, the boys clung close to their parents. But soon they wandered off and began talking with the boys in the institution. On the way home in the car, one of the three sons looked at his mother and said, "You know somethin'? There's not that much difference between those kids who are locked up and the kids who are outside."

That visit seems to have had more effect on Pearl West than on her sons. Twenty years later, in October of last year, she was named director of the California Youth Authority by Governor Edmund G. Brown Jr. She succeeded her old college friend Allen Breed, who was a supervisor at Preston back in 1956 and later earned a national reputation as director of the CYA for almost nine years.

When her appointment was confirmed by the California Legislature in April, West became one of the few women ever to head a state juvenile authority—the nation's largest. At age 54, she steps up from her family of four sons to responsibility for 4,000 young people in ten institutions and five camps and an additional 8,000 in 40 parole districts. She has a staff of 4,200 and a budget of over $100 million. She also sits as chairperson of the CYA Board, which sets policy for the department and reviews cases for parole.

West enters the criminal justice arena as a dedicated humanist before a somewhat hostile public. At a time when people are clamoring for quick remedies to crime and stiffer penalties for criminals, she is unashamed to look a person in the eye and say, "The root causes [of crime] are where society's resources have got to be invested," or, "Care is the magic ingredient." When such things as "root causes" and "community corrections" are being attacked as questionable catchwords, West sees them as "absolute basic tenets."

She brings to the CYA a philosophy which is not so much a professionally nurtured position as it is a part of her fiber: "The community is where it's

Pearl S. West meets with Gov. Edmund G. Brown Jr.

at." She did not arrive at the top of the bureaucracy by the usual career route, but by an outside path, leading through a thicket of community activities in her hometown of Stockton, California. Her background is crowded with dozens of committees, boards, organizations and causes, from the local library committee, to a mayoral recall campaign, to the National Organization for Women. Between 1960 and 1975, she received ten awards for service to her community, including the "Mr. Stockton" award—she is the only female recipient to date.

Career Start

West's professional career started in education, as coordinator for community education programs at a local college. In the mid-sixties she took her volunteer efforts into the corrections field, as a member of the San Joaquin County Juvenile Justice Commission and as the first citizen consultant to the California Council on Criminal Justice. In 1974, Breed urged her to apply for a full-time position on the CYA Board. After a two-hour interview with Governor Brown—"a marvelous colloquy which we both thoroughly enjoyed"—she became his first appointment to the body in 1975.

She takes over a position which was vacated with more than a hint of frustration by Breed, who earned his national reputation promoting treatment, pioneering delinquency prevention and ward's rights. (Inmates of CYA institutions are known as "wards.") Writing in the Youth Authority Quarterly last year, Breed said, "Certainly, when one looks at the recidivism rate among offenders paroled by the Department, one must conclude that we have not succeeded, at least on a broad scale, in providing rehabilitation. We still do not know how or why rehabilitation takes place,

nor do we have definite proof that a single offender has been rehabilitated by anything that we did. . . ."

West steps into Breed's shoes with a great deal of energy and a very different view of the figures. While a little over 43 per cent of the young people paroled from the CYA return to institutions within two years, she feels that is a positive sign. "Considering the level at which we get these kids, our recidivism rate is nothing to be ashamed of. . . . All I'm saying is that these people got this way for some reason, and that with some of them we can undo it. Evidence is we're doing it with just under half."

That positivism is the essence of Pearl West. She is an elegant, poised woman with waves of silver hair and bright brown eyes which rarely betray any fatigue in her long days at the job. From Washington, where he is now working with the Law Enforcement Assistance Administration, Breed said recently, "Philosophically, I don't think there is one iota of difference" between himself and West. It was he who recommended her to Governor Brown as his successor last year. "In Pearl I saw someone who could bring an entirely fresh approach," he said. "She will be a breath of fresh air." Said one of her staff: "She admits she's Pollyannish. She's proud of that. But she's going to be an informed Pollyanna."

New Trends

Although arrests of juveniles have increased only slightly in California in the past ten years, felony crimes committed by juveniles against persons jumped over 200 per cent. Back in 1966, only 15 per cent of the people sent to the Youth Authority had committed violent offenses. By last year that number had swollen to 40 per cent of the population, which averaged almost 19 years old. (Youth Authority institutions accept deliquents aged 14 to 21; they can be held until they are 25.)

The younger delinquents who used to be sent to the CYA for minor offenses are now handled by the counties. That leaves only the older, toughest youths—those who have tried and failed in county juvenile halls and camps, or who have committed particularly serious crimes—for the state to deal with.

West doesn't think the numbers mean kids are necessarily getting tougher—just that there are more of them. But she is not "Pollyannish" about violent crime by young people. "I am just as uptight as anyone about violence against a person," she said. "I find it un-understandable. I can understand a kid ripping off a purse and even accidentally injuring an old lady because he didn't think she had the strength to hold on and she falls down, but I don't understand the case which happened recently with one of our parolees. He went into a flat in the east [San Francisco] bay, found an old man home alone, tied him to a chair and burned him to death. I cannot begin to comprehend what went on in that young person's head."

For such "un-understandable" cases, as well as for troublemakers inside CYA institutions, West has considered transferring wards to adult prisons —a practice virtually eliminated by Breed. She believes such a step may be necessary to keep those who "are beyond any possibility of even minimal rehabilitation" from "infecting" the rest of the population. Most CYA wards sent to adult prison would stay for only 30 to 60 days, she said, but

"some should not come out." To send large numbers of wards to the adult institutions, she feels, would be a "terrible failure," and she insists the number will be less than 100.

West said she will only send offenders over the age of 18 to adult institutions. She said she "cannot imagine" a circumstance when she would send someone who is only 16 or 17-years-old, as she is now permitted to do by law. She particularly objects to the section of a law which went into effect in January, allowing juveniles between 16 and 18 who are charged with major felonies to be tried as adults, and sentenced directly to the adult system.

Another legislative twist that accompanied West into office was California's determinate sentencing law, which goes into effect July 1. Although the law was intended for adults, another law and a recent court decision now require juvenile and youth sentencing practices to resemble those for adults. Because of the complex requirements of the law, CYA staff are analyzing the files of thousands of wards to determine its effect. It may result in added time for some wards and less for others, but it is sure to reduce the level of control the CYA has over them.

At the time of her appointment, West attacked the law—which was supported by Governor Brown—as "computer justice." She said that the CYA's power to keep a ward until it felt he was ready to leave was "one advantage we have" in the rehabilitation effort. She has since softened her opposition as amendments to the law have restored some discretion to judges and the CYA Board.

Prevention Branch

In 1974, the Youth Authority was given the task of leading the state in developing programs for delinquency prevention. The "Prevention and Community Corrections" branch taps the essence of West's "community-is-where-it's-at" philosophy better than any of the department's four other branches. She hopes someday to make it the strongest arm of the CYA, but today it is the smallest branch—with only 65 employees—and the vaguest in terms of program definition. Administrators freely admit they don't know what works to prevent juveniles from becoming delinquents.

Says West: "The definition of crime and delinquency is really what society says it is. Every year society says it's something different, which makes it extraordinarily difficult to pinpoint how to prevent it except from the very root kind of approach."

The state's emerging approach to "prevention" is indirect, providing support and guidance and some funding for city and county efforts. That accords with the philosophies of both West and Governor Brown, which hold that crime is due to failures in families, schools and neighborhoods, where the solutions must be generated. As Brown said in April, "Instead of the employer of last resort, government is now becoming the family of last resort, the neighbor of last resort. . . . Government should liberate people to do for themselves."

"What we're saying," said West, "is there's no prescription you can superimpose as The State on a given community. . . . We can help them evaluate their own situation and capabilities and help them develop their own program."

West described one such program which she thought showed promise when she was screening projects for the California Council on Criminal Justice. In the project, kindergarten and first grade teachers served as an "early warning system," alerting two private counselling agencies to children who seemed destined for trouble. Counselors from the agencies then visited the children and their parents, and helped them work out problems in the family. At the end of the three-year project, although there was no data, West said "everyone had a gut feeling that this was the way to go.

"A kid in trouble almost always means a family in trouble, and the critical time for a family if it's going to make it for the long haul is when the kids are just starting school. By the time kids get to our institutions, we have an overwhelming number who are from one-parent homes where the kind of parenting is of questionable value, if not negative value. The families are generally beyond repair—sometimes the families are not even identifiable. It's a tragedy which I think is in large part avoidable by early intervention of a supportive kind. . . . I see the incidence of the impact from a school system and an agency as being the optimal point at which to strengthen a family, which I think is going to be the basic way you're going to accomplish delinquency prevention."

Institutional Programs

While prevention is her frontier, West does not plan to abandon CYA institutional programs. Breed established the CYA's focus on wards' rights when he set up a grievance procedure in 1973,* No. 3), and "fairness" is still West's top priority inside institutions. "Many of the kids who come to us have never been treated fairly," she said. "It is imperative that we impart to them that the system is capable of being fair."

West knows that many people view the CYA primarily as an agency of punishment, and she accepts that mandate. "I'm not against locking people up under certain circumstances," she said. "I think people who hurt people ought to be locked up . . . but I believe if you keep a person beyond a certain period of time you do some damage. The state needs to have a place where it can both punish and treat people, and I think we can do both."

That opinion sets West apart from the man who appointed her. Governor Brown has often expressed a dim view of rehabilitation efforts behind bars. Early in his tenure, he attacked "group gab sessions where you talk about what your mother did or didn't do to you."

West shares the Governor's fundamentalist approach to programming, and both are enthusiastic about the CYA's five conservation camps, where recidivism rates and participation in education programs are better than average. But West extends the "back to basics" idea to remedial education, vocational training and "survival training" inside institutions—all continuations of programs encouraged by Breed.

West sums up her treatment goal as "turning out stable young people who can cope with adversity." She feels that obliges the CYA to extend its support of wards as they reenter society, which means a much broader

* See following article by Charles A. Kuhl.

definition of the parole agent's job: "We have to involve parole all through the time that a young person is locked up . . ., to keep his contacts with his family alive, to keep his contacts with his community alive, to keep those bridges there so that the whole process of re-integration back into society is as free of trauma as a third person can possibly make it."

One of West's top priorities is enhancing the relationships between wards and staff. "We have discovered two things that seem to make a difference with kids who are institutionalized," she said. "Constructive occupation involvement, and having someone who's really interested in them."

Plans For Volunteers

As well as adding to the numbers of counselors and parole agents, she hopes to supplement the paid staff with a large contingent of volunteers. West is a strong believer in the value of volunteerism; "I was a volunteer for much of my life," she said. Volunteers "bring the feeling that someone really cares to an operation. Kids benefit from that, staff benefits from that." She claims that wards who have been assigned volunteer counselors have had a 50 percent better success rate on parole than those without. "The essential thing is that the wards perceive that the volunteer is there because he really cares."

Volunteers have the added benefit in their financial savings to the state—a major consideration under a governor who frequently expounds on the "era of limits." West was "appalled" when a state senate budget subcommittee recently proposed cutting 20 parole agents from her staff. While she foresees no future need for more buildings, she does expect added personnel costs, for which she vows to "fight vigorously."

West said she believes the paradox of the governor's philosophy—fiscal conservatism laid over seemingly costly long- and short-term programs to combat crime—can be resolved. "I understand where the Governor is coming from, and I commiserate with his philosophy," she said. "I'm not sure he can literally say 'no growth' in a state where problems continue to grow and population continues to grow."

It is not uncommon if one passes the new glass-walled Youth Authority offices in Sacramento late in the evening to see Pearl West bent over her desk, alone at her work. The director, as Allen Breed said in a farewell interview, has a tough, frustrating job. Signs of progress are few, as he wrote in his closing message to the CYA: "We cannot be pleased with what we have achieved, for the level of crime and delinquency in America is certainly no cause for complacency or satisfaction . . . We must do better."

That invocation seems to hover over Pearl West these days. "In a sense," she said, "I am probably doomed to frustration as long as I grapple with these problems. But frustration is either a challenger or a defeater. No one can tell me how long I will be able to retain the enthusiasm I have for meeting this challenge. But the day I get to the point that I feel it is hopeless, I leave. Nobody can afford to stay in this place who feels any other way."

IMPLEMENTING THE WARD GRIEVANCE PROCEDURE

BY CHARLES A. KUHL

Mr. Kuhl is deputy director for the Institutions and Camps branch of the California Youth Authority

This article, from a paper presented to the annual meeting of the American Correctional Association on Aug. 22, 1977, describes the workings of the Youth Authority's nationally-recognized ward grievance procedure and explains how it can be implemented by other correctional agencies.

With the turmoil of the 1960's still ringing harshly in our ears, the early years of the 1970's brought increased innovation and experimentation into the field of human rights. Spurred on by numerous court decisions and following legislation, the correctional arena was in many cases forcibly bounced into the spotlight (era) of implementing procedures and processes for strengthening due process and handling the human rights of prisoners and wards. Even before these issues received national attention, however, the California Youth Authority was on the move to construct a formal procedure for dealing with ward (inmate) complaints.

In early 1973, the California Youth Authority, under the guidance of Allen F. Breed, Director, developed the necessary principles and guidelines for the implementation of a ward * grievance procedure. With a grant from the Rosenberg Foundation (a San Francisco based nonprofit funding organization) and in consultation with the Center for Correctional Justice (Linda Singer, Director), the system was implemented initially at the Karl Holton School, Stockton, California, in September, 1973. By June, 1975, the system was operational statewide in all Youth Authority institutions.

In 1976, the CYA Ward Grievance Procedure was named as an Exemplary Project by the National Institute of Law Enforcement and Criminal Justice. The program was cited as a major pioneering breakthrough in ward (inmate) rights in the correctional field. Since that time the impact of the ward grievance procedure has gone beyond California, spreading to New York, Colorado, and South Carolina.

But just what is the ward grievance procedure? What are its foundations? Does it work?

Mr. Breed believed that "equitably handling the legitimate concerns of wards (inmates) was a crucial prerequisite for effective correctional treatment."

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* The name "ward" given to the youth incarcerated in Youth Authority facilities should not be misleading. Over 50% of all CYA commitments are from the adult courts and their crimes—assault, robbery, homicide—are similar to those of inmates in California's adult institutions. Average age of the Youth Authority wards is 18.7.

With this belief as a guide, the ward grievance procedure was constructed on a foundation of 11 principles.

1. **Active participation by elected wards and by staff in the design, development and operation of the grievance procedure adopted in each program unit;**
2. **An available course of action to provide immediate redress to a ward with an emergency grievance or problem;**
3. **Levels of review, kept to a minimum but ideally corresponding to the major decision-making levels of the program unit's organization. Any party to a grievance, ward or staff, may appeal a decision;**
4. **A full hearing at some level which affords all parties to a grievance the opportunity to be present and to participate in the hearing;**
5. **Representation of grievants in any informal conferences, hearings or reviews by a representative selected by the ward from other wards, staff or volunteers regularly participating in the program unit;**
6. **Reasonably brief time limits on all responses and any actions which must be taken to put a response into effect. Reasons for action taken must be documented in writing. Lack of a written response or failure to complete action within the required time periods will entitle the grievant to proceed to the next level of review;**
7. **The right of appeal or independent review by a party or parties outside the institution or Youth Authority;**
8. **Use of the grievance procedure itself to determine whether a specific complaint falls within the procedure;**
9. **Guarantees against reprisals for anyone using or participating in the grievance procedure;**
10. **Constant monitoring and evaluation of all procedures, their operation and their decisions; and**
11. **Referral of grievances that may result in punitive action against institutional employees directly to the Superintendent for investigation and prompt written responses to all concerned parties.**

Since the inception of the ward grievance procedure in 1973, two intensive evaluations of the program have been conducted, one by the Research Division of the California Youth Authority and the other by the Center for Correctional Justice in Washington, D.C. The results of these evaluations demonstrated that the CYA ward grievance procedure not only works but had exceeded expectations. Of 7,124 grievances filed from September 1973 to February 1976, over 2,124 were settled at the first formal level of review—the ward/staff committee meeting in the grievant's living unit. The second largest group, 1,289 grievances, were settled at the second level—the superintendent. A majority of this second group were on issues of policy. Only 48 grievances, less than 1 percent of the total, needed outside arbitration to reach a settlement.

A general breakdown of usage shows the following:

1. *Individual Problems:* A ward's complaint about how a rule was applied to him (about 40% of the total).
2. *Policy Issues:* A challenge of the rule itself (about 33% of the total).
3. *Ward v. Staff:* A ward's complaint about an arbitrary act by staff (about 17% of the total).
4. *Miscellaneous:* A ward's complaint about a fellow ward, faulty equipment, inadequate physical facilities (about 10% of the total).

Of greatest interest to the reader at this point perhaps is "will the system work in my facility?" and, secondly, "how does one go about developing and implementing the system?" A third question might be, "do I really need such a system?"

(Let me start with the last question and work forward.) From all observable signs and trend setting indicators, the era of human rights is still upon us. President Carter has taken issue openly and publicly with many of the nations of the world regarding human rights. This open, supporting stance is bound to have an impact down many organizational lines. While the initial burning zeal of the late 60's and early 70's has moved from a wildly spurting flame to a steady burning light, the flame has not gone out.

Generating strong and forceful impact, the judiciary of our state and federal systems has not slowed its "hands on" policy of decision making around the correctional arena. Landmark decisions continue to be made even though several reversals of previous decisions have come forth in the last several months. The courts are continuing in their interest in human rights, due process, and the entire scope of the Criminal Justice System including corrections.

Lastly, in response to question No. 3, and perhaps most importantly, the ward grievance system works. Wards have found they can change their environment through constructive, legal measures rather than angry confrontation. The system can be an effective method in "mellowing out" previously violent, confrontive and hard-to-manage ward complaints.

In response to the first two questions—"will the system work in my facility" and "how does one go about developing and implementing the system"—I would suggest the following:

1. **Base your system on the 11 principles listed earlier.**
2. **The wards (inmates) and staff must participate in the creation and development. The concept that the grievance procedure is for both and by both must be promoted.**
3. **The highest officials in your organization must believe in the system and support it.**
4. **Recognize that it is a sharing of power that will *not* cause loss of control or authority but rather is a sharing of power that can be made to work for the administration as well as the wards (inmates).**
5. **Make the system as easy to use and as simple as you possibly can. Easy accessibility coupled with simple procedure will lead to success.**

6. **Get expert advice to help develop your system. The Center for Correctional Justice and the California Youth Authority can provide valuable advice, experience and consultation. The CYA is currently involved, as an Exemplary Project in the Host-Transfer of Knowledge (see references—end of monograph).**
7. **Train your staff and wards (inmates) in the system and continue to train in an ongoing process. As time progresses, retrain older staff and introduce the system to new staff and new wards (inmates).**
8. **Develop a monitoring system that audits your grievance system. This allows for correction of deficiencies before the system starts to founder.**
9. **Lastly, I would say that there are numerous articles, pamphlets, reports and manuals that are available for your use. In the reference section of this paper, I have listed several for the reader's use.**

In summation, the CYA ward grievance system is four years old. It has succeeded very well in reaching and exceeding the original goals set out for it. While the CYA format may not fit every correctional system that tries it, the concept is a good one and new formats can be developed to exercise the principles.

The safeguarding of human rights and the handling of ward complaints can be a complicated and traumatic experience within any correctional system. Many ideas and programs have been tried, with many failures and only a few successes. I am sure many new innovations will be tried in the future. For the present, the California Youth Authority ward grievance procedure system is one that tried it and made it . . . all the way to the top!

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A "MORTUARY" COMES TO LIFE

By Art German

Mr. German is information officer of the California Youth Authority

Going into its fifth year of operation, the Riverside County's Adult Treatment Center is applying an effective recipe to help the most hard-core clients in the probation department's overall caseload—a combination of teamwork, informality, and most important of all, care.

If the arcaded, grey-stoned building in downtown Riverside where the Riverside County's Adult Treatment Center is located appears at first glance to be a funeral home, that is not surprising.

The facility was indeed, at one time, a mortuary and it still contains a chapel, a room where the deceased were once embalmed and other re-

WELCOME—Receptionist Beth Rogers greets a visitor with a big smile.

INFORMAL OFFICE—In an office festooned with cheerful posters, unit B staff Chenille Wilmington, Lon Vanderpool and Lois Dixson discuss activities of their probationers.

minders of its past use. But for the past four years it has also contained a staff of dedicated probation employees who have been devoting a unique team approach to the business of providing intensive supervision to some 120 probationers, most of them with a history of drug problems.

And by all accounts their efforts have been successful. Jenny Holbrook, who launched the Adult Treatment Center four years ago as its first supervisor and is now director of the probation department's special supervision programs, reported that a recently completed in-house study showed that:

—The average number of convictions per client was reduced from a factor of 2.28 prior to assignment to the Adult Treatment Center to .45 during supervision.

—Seventy-three percent of the clients assigned to the center had no new convictions during the time of intervention by staff.

Although these figures are admittedly preliminary, Ms. Holbrook said they indicate what can be accomplished with difficult probationers through an approach which is typified by the center's motto: "We Care."

A visitor to the center will get his first impression of the program when he is greeted by the receptionist, Beth Rogers. She smiles—and the smile is genuine—and she asks "can I help you" in a tone that indicates she really does want to help.

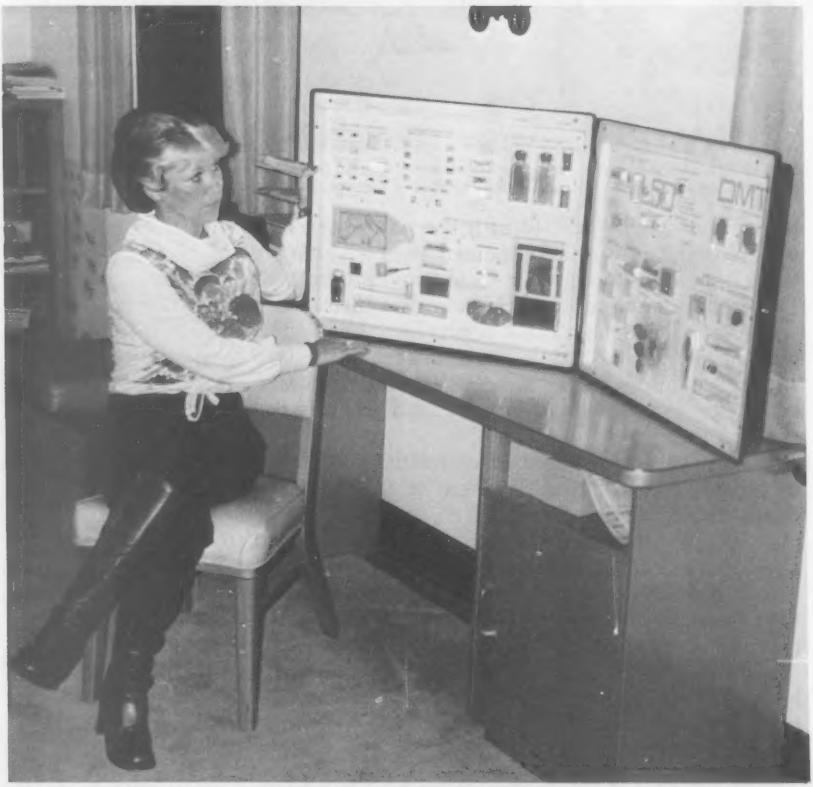
This is all part of the center's game plan, which is to make the probationer feel completely at home whenever he visits the center and conducts

business with the staff. The goal is to provide a supportive environment for intensive supervision, including surveillance and services, by having contacts with clients at least weekly and as often as daily if necessary to deal with crisis situations.

Frank Sanchez, the current supervisor of the center, is informally dressed, along with all members of his staff. And the walls in the various rooms are decorated with a friendly variety of posters and pop art.

"This is our style," said Sanchez. "We are out to provide an informal, non-threatening setting, and this building, possibly because it is so off-beat, is ideal for this purpose. It creates a supportive environment for our clients and they are quick to pick up the difference."

The center's basic strategy involves the team approach. A probationer, instead of being assigned to the caseload of a single deputy probation officer, is under the supervision of a team which typically consists of two deputies, a drug abuse counselor and a community service aide. The center can handle up to 150 probationers, each assigned to one of two teams. With the number of professionals and paraprofessionals in each team taken into consideration, the average caseload size is figured at



COMMUNITY EDUCATION—Volunteer Sharon Hanley displays the drug kit which is used when probationers and volunteers make presentations on the dangers of drug use to community groups.

20—small enough to provide really meaningful supervision, Sanchez said. The small caseloads are a basic characteristic of programs such as the Adult Treatment Center's which are supported through State special supervision funds.

Sanchez described some other vital statistics in the program. The average length of time for clients is about 14½ months. More than 75 per cent have had experience with drugs and many have been involved in drug-related offenses. Many are affiliated with gangs. Those assigned to the program are frequently fairly serious offenders who have been referred to the center from other probation programs in an attempt to interrupt their criminal behavior in the community before it escalates to a point that might result in placement in a state institution.

Special, intensive and concerned supervision is essential, Sanchez said, because the clients are among the most difficult to work with in the entire probation department.

Deputy Probation Officers Lon Vanderpool and Lois Dixson, and Chenille Wilmington, a drug abuse counselor, are the members of one of the two treatment center teams. This unit, Team B, is temporarily without a customary fourth member, a community service aide.

They sat in their office discussing how they deal with their clients.

"We think the team approach provides better service to a client," Vanderpool said. "If a client has just one probation officer, it is possible they will not get along. Here we have three people. We meet among ourselves regularly to discuss individual cases and to keep each other informed of what's happening. We also take pains to make certain that a client doesn't try to play one of us against another."

Ms. Wilmington said she concentrates on the drug abuse problem which is a factor among most of the clients.

"We hook them up with a hospital for detox, or as an outpatient for treatment. We counsel with them and try to get them jobs. Trying to find employers willing to hire them is not easy. But jobs are all-important. If they are idle, they are just going to think about using drugs."

Probationers have been placed with Travel Queen Mobile Homes, the Southern California Construction Opportunity Program, the local school district and with a number of fast food chains, including McDonald's and Jack-In-The-Box. Last summer, a half dozen clients worked at the Lake Perris State Park.

The center also works to develop educational opportunities, including GED testing, placement at Riverside City College and in adult education programs. For those who need individual tutoring, special arrangements are made.

Continuing contact and counseling also is maintained with the families of probationers, as well as the clients themselves. And placements are made in residential facilities for those who cannot or should not return to their homes. Among such facilities is Reach Out, a 15-bed residence center in Ontario.

The center holds periodic group meetings for all clients and all are invited to express themselves freely about their problems and concerns.

Although these are some of the program components, it is the approach that is particularly significant, according to Vanderpool.

"We are set up to be different," he said. "We try to present a non-threatening atmosphere. Unless we're going to court, we usually dress informally. We try to do away with blocks between ourselves and the clients, and there are a lot of blocks to overcome until you can get to a client. What we're particularly anxious to get away from is the bureaucracy image."

Ms. Wilmington noted that even while the spirit of informality is prevalent, "the clients know we mean business.

"If they screw up, we make it clear we won't hesitate to take them back to court, even though we will maintain continuous contact to try to keep this from happening," she added.

Ms. Dixson said the contact factor is strengthened because there are three staff people in the unit, none of them individually responsible for a single client.

"And just because there are three of us," she said, "they can't say my probation officer doesn't like me."

The center makes widespread use of volunteers, particularly as part of a program of narcotics prevention through public and community awareness. Panels composed of a substance abuse counselor, a deputy probation officer, a client and a volunteer frequently visit local schools and community groups to share information about the dangers of drug abuse. These presentations are in common "street" terms for maximum effect.

Among the volunteers who participate in this program is Sharon Hanley, a former addict who now works as a secretary for the probation department. She spends much of her spare time with clients of the treatment center and frequently appears with them at community meetings.

"We use ourselves as an example," she said, "and we stress that it's not the route to take."

Ms. Holbrook, the special supervision programs director, emphasized that she envisioned the program at the outset as "something different." What she had in mind, she said, was an open center, one with an informal setting, where probationers would feel comfortable and where the climate could be established for frank and open interchange between staff and clients.

"I think it has worked out well," she said, "there has been some inevitable skepticism in the probation department, but we have dealt with that, and Larry Smith (the chief probation officer) has been totally supportive."

Special attention is given, she said, to the appointment of team members because members of the group must supplement each other's strengths and possible weaknesses. As much variety as possible in ethnic makeup, education, life experiences and personalities is sought after in order to offer a wide range of human resources to the client.

"It takes," she said, "a special breed of cat to work in this program and those are the kinds of people we are always looking for."

Center Supervisor Sanchez said that involvement of the team tends to prevent arbitrary and sometimes unwise decisions by a single deputy probation officer that could adversely affect a client. The team, he said, breaks down arbitrariness, the personality factor and the use of heavy authority.

"When an unsupportable decision is made," he said, "three other people will ask 'why?' "

Most of the clients are from 17 to 30 years of age and there is a frequent need among some of these young people for a small loan to tide them over such problems as car repairs or the need to buy a decent suit for a job interview. The center has dealt with this problem by establishing a loan fund, capitalized by money raised through bake sales, bowling tournaments, luncheons, music concerts and dances.

"One thing we've found," said Ms. Holbrook, "if there's a reasonable need to meet, we'll find a way to meet it."

NEEDS DISPLAY—Frank Sanchez and Jenny Holbrook check the bulletin board for potential services in the community for their probationers.

A NEW LEAF FOR ROGER

By David L. Lehman

Mr. Lehman is a deputy probation officer with the Humboldt County Probation Department

"Turning Over a New Leaf" is a time-honored phrase for those who change their patterns of behavior for the better. In Humboldt County, "Project New Leaf" is having good results in its objective of avoiding a ranch or camp commitment for the serious juvenile offender.

"What can be done prior to committing our serious juvenile offenders to ranches and camps?" This question was presented by Humboldt County's Chief Probation Officer late in 1973. His reason for asking this question was obvious. Humboldt is a large rural county in northwestern California without an existing ranch or camp program, and the costs for commitments to other counties' programs was excessive and increasing steadily. Besides that, it seemed that if an effective program was existing, it should incorporate the involvement of the community from which the problem arose.

After an initial period of brainstorming and pooling ideas, the department began a Juvenile Hall Treatment Program, which later became known as Project New Leaf. Since early 1974, 70 minors, both boys and girls, have been committed to Project New Leaf. The project operates within and from the juvenile hall occupying a single wing with a maximum capacity of eight minors involved at one time. It is divided into four separate stages; the first three are within the juvenile hall, and the last is a trial community placement involving the parents or foster home.

Designed to be simple and economically efficient, as well as effective, the project does not require a large staff. In fact, the only staff member devoted entirely to the project is the coordinator. The existing resources within the juvenile hall, juvenile hall school, probation department and community are all combined to meet the needs of the wards that are committed.

Minors selected for project commitment are presented to a planning committee where realistic goals are developed. They are then committed by the court and begin the program. The first three stages of the project are gauged by a point system stemming from behavior modification theory. Points are made by exhibiting appropriate behavior and completing assigned jobs. With these the minors purchase rewards of clothing, phone calls, toiletries, walks and passes. The points indicate how rapidly a minor progresses through the stages which each involve an increasing level of responsibility.

In addition to the basic structure provided by juvenile hall and the point system, each minor is involved in a counseling program consisting of family therapy and small group experiences. This format was designed to, and has, initiated positive changes in behavior and personal growth. It takes an average of 110 days to successfully complete the stages within the

juvenile hall and the trial community placement. Eighty percent of the minors committed to the program have avoided further institutionalization. Perhaps even more impressive is the fact that 25 percent of those minors referred are successfully terminated from probation and are not referred for further law violations. Keep in mind that prior to being committed to the project, most of these minors have established a pattern of recidivism.

A sample case involves Roger, a 16-year-old boy with a past probation referral history of beyond control, runaway, malicious mischief, and burglary. His parents are separated and an older sister and younger brother have experienced delinquent activity. Roger's mother receives welfare assistance. Being referred to juvenile court a number of times has resulted in wardship, probation, placements with relatives and foster placements. All of these have been unable to interrupt an increasingly serious referral pattern. If the project were not in existence, Roger would surely have been committed to a ranch or camp out of Humboldt County.

During the project staffing, Roger's needs were discussed and appropriate goals and plans were devised. Scoring very low on scholastic abilities and a second semester Kindergarten reading skill, Roger's plans involved a high level of interagency involvement and tutorial assistance. The counseling program placed special emphasis on building a secure self image and mother/son relations.

During the second stage of the project, Roger ran away while on a short pass. He later turned himself in and his points were adjusted as a consequence for inappropriate behavior. After receiving his restrictions he settled down and finished the program while making some meaningful relationships with various juvenile hall staff members.

Roger met all of the goals established during the staffing to varying degrees. He returned to his mother's home, received job training and job placement, and most remarkably, went from the second semester of kindergarten to the fourth grade reading level in approximately three and one-half months. Roger has since remained referral free for a little over one year.

Of course, not all cases are successful. However, we feel that the results of Project New Leaf are impressive and become even more so when considering the community involvement and money saved. This program has enabled a rural county without a correctional ranch or camp facility, other than a small 26 bed capacity juvenile hall, to meet the ever increasing demand to effectively deal with the serious juvenile offender.

A FINANCIAL CLOUD OVER HARPER HOUSE

By Winston Chao and Nat Garth

Mr. Chao is a program consultant for the Oakland Parole Office. Mr. Garth is supervisor of the Oakland office.

For the past three years, Harper House has employed ex-offenders as staff in a unique approach to resocializing newly-released Youth Authority wards in the community. The program has been plagued with financial problems, however, and soon faces its biggest fiscal threat yet.

A traditional problem which has faced the California Youth Authority is how to provide effectively for institutionalized offenders as they return to the community—particularly young people with a history of drug abuse. Harper House, a Youth Authority-funded residential home in Berkeley, represents one such effort. Harper House, which primarily serves drug-identified wards from Parole Region I (San Francisco Bay Area), is a male halfway house which accommodates up to 12 wards from 16 to 24 years of age.

Harper House is a good example of a joint partnership between the Youth Authority and the community. While the Department has provided the necessary funding and professional assistance, the program is actually run as a youth component of the Allied Fellowship Services, a voluntary association devoted to the welfare and services of ex-offenders on parole or probation.

Harper House opened its door in May, 1975. In the 2½ years of its existence, it has received and cared for 78 Youth Authority wards. In a study on recidivism by the Youth Authority's Research Division, Harper House residents were ranked as having the lowest violation rate in the state when compared with other similar programs contracted with the Department. It has an impressive overall 89 percent success and performance rating.

What Harper House has always strived for is to create a relaxed and home-like environment for the young adults living there, with individuality and dignity as its overriding concern. Obviously, the wards coming through the program have been pleased with their living environment, with, only four of 78 residents leaving the program because of dissatisfactions.

Residents of Harper House stay for an average of 80 days, with a minimum stay of 14 days and a maximum stay of 8 months to date. Meals and accommodations are provided free. So are other services such as counseling or medical.

From its inception, Harper House has deliberately chosen to maintain a low profile with its residents. It operates on a loose structure with mini-

Harper House occupies a converted large home in a residential section of Berkeley.

mal rules and regulations. Residents are accorded the right to have their own keys to their room. They are encouraged to participate and initiate activities with staff and their peers on the theory that establishment of trust and goodwill are paramount in the smooth operation of such a facility.

A profile of Harper House residents: He is usually Black (though there have been two Chicanos and six Whites, among the 78 wards going through the program). He is referred primarily by the Oakland Parole office. His average age is 20, ranging from 15 to 24. His educational and reading level is below fourth grade; with grade 3 as the average. Ninety percent of the residents come from broken homes, with one-parent female and two or three children dominant in the family structure. His family is considered economically disadvantaged and is usually a recipient of welfare. Only 20 percent of the residents have some skills and significant work experiences; the rest are either totally unskilled or at best have engaged in janitorial or maintenance work. All residents are drug-identified. Twenty-eight percent of the residents have been successfully placed in a school program while staying with Harper House. Thirty-five percent have received job placements with the assistance of Harper House staff, JOBS Program and the Oakland Parole office. Prior offense before coming to Harper House ranges from burglary to robbery and assault. Most have a general disposition that is usually hostile and anti-authority. It is against this background that Harper House seeks to accommodate and help new parolees adjust to their re-entry to the community.

While Harper House is a drug-related residential halfway house for Youth Authority wards, its emphasis is on human quality rather than rigid regulations.

The project director, Joseph Williams, had this vision of the program: "Harper House stands for home—for each and every resident who has ever walked through our door. It also stands for dignity and human warmth."

Perhaps the most outstanding feature of Harper House program is its use of ex-offenders to operate the program and counsel ex-offenders in their search for common understanding of crime and justice. Take the project director for example: He was himself a former Youth Authority parolee. He also went through the adult probation and parole system with a wide range of experiences with police, the courts, prisons, jails and institutions. He is now willing to share his knowledge and experiences of incarceration in the criminal justice system with the wards whom he counsels, to instill in them the harsh reality of the unglamorous side of crime and prison life.

Harper House also encourages individual growth and self-enrichment. While drug counseling is an important part of an individual resident's rehabilitation and adjustment program, there are no degradation rituals as are employed by some drug-treatment programs. The maintenance of self-esteem is considered all-important, so, instead of using "attack" or "self-degradation" therapies, Harper House staff treat residents as normal human beings with sensitivity, warmth and feeling.

The successful operation of a halfway house is no easy task. It often depends on the personal quality of the director. Project Director Williams is known for his deep commitment and personal charisma. He is a dynamic and active person; open and dedicated to his work. His care and concern for the residents are genuine and his presence and counseling sessions make a great impact on the residents. To them, Williams often renders helpful advice, and at the same time he is viewed as a sympathetic listener to their personal problems. Williams is assisted by two youth counselors in the maintenance of everyday programming and activities.

The Oakland Parole office also keeps in close touch with Harper House. Jay Bacon, a parole agent, provides technical assistance whenever it is needed. Bacon and another support agent, Philip Herrero, carry the entire parole caseload on Harper House residents. They attend all weekly staff and resident meetings. They work cooperatively as a team with the counselors to provide whatever professional help with school, employment, and problems of a general nature. The agents' liaison with Harper House is in addition to their regular caseloads of parolees.

Harper House, is not without its share of problems. It has an extremely high staff turnover rate—12 in the past 2½ years. This is due to the apparent lack of administrative experience of the project director and his desire to give ex-offenders an opportunity to function as staff members, sometimes without consideration to the quality and training that staff members should possess. Thus, while his personal commitment and long hours can sometime offset the imbalances created by staff turnover, the program undeniably suffers at times. The project director appears to have gained valuable administrative experience by learning from his past errors, however, and the problem of turnover seemingly has been corrected.

Another problem area is the lack of organized activities and programs for Harper House residents, with the result residents often engage too

frequently in doing "their own thing." This diminishes the value of group living and group interaction which a program like Harper House is supposed to build on. The problem is due, in part, to a chronic lack of financial resources.

This deficiency, too, is being corrected. With the support of the Oakland Parole office, Harper House will soon launch a program of planned recreational activities, including weekly movies, overnight camping trips, and pool and table tennis tournaments.

Harper House has also contracted with the Peralta College district to provide GED tutoring for its residents. The Oakland Parole office and Harper House are in the process of jointly sponsoring a series of "Rational Behavior Therapy" sessions involving both staff and residents to teach them the art of reality reasoning.

Harper House is now in its third and final year of Youth Authority funding. CYA support totaled $52,000 during the first year, $85,000 during the second and $86,000 this year.

With third-and-final-year funding due to run out soon, Harper House faces a serious problem of survival. Those of us who have worked in and with the program feel that its loss would be a tragedy. Despite the program's chronic trials and tribulations, there has also been a strong feeling of accomplishment—a sense that something substantial has been contributed to the correctional field.

The unique concept of using ex-offenders to staff an entire program—with the program itself providing a homelike atmosphere in a residential setting—is a constructive and innovative approach to helping parolees become constructive and law-abiding citizens. At a time when numerous other programs have failed, the use of ex-offenders as role models in youth guidance, counseling and diversion merits a continued effort.

We are anxious to see Harper House grow and prosper, not only as a residential facility for drug-identified wards, but as a needed re-entry center for newly-released wards, to give them the help they need before they step into the real world outside.

EDUCATION IN THE YOUTH AUTHORITY

At various times in the history of education, a philosophical tug-of-war occurs between those who believe learning should be for its own sake and those who believe learning should always have its practical effects. It is the theme of "relevancy" in education as opposed to the idea that learning has its own built-in rewards.

Though the reality may include something of both theories, it is clear that relevancy is an important theme running through the education departments of Youth Authority institution and camps. At Preston School the issue of relevancy is indicated in the new curriculum designed to promote job success when wards are released on parole. Parents are also concerned with relevancy in the way they responded to a needs assessment survey conducted at Karl Holton School—a response that emphasized reading, survival job skills, and vocational education. What is true of Karl Holton and Preston is true of all YA institutions and camps that are constantly revising and updating education programs to become relevant to the needs of their students.

The theme of relevancy is also a concern of Don Iten's article that addresses itself to vocational instructors and the types of backgrounds they possess for their students. And Bob Brown's article is a subtle proposition that if students are to learn an art form, his step-by-step method of teaching painting has practical effects that go far beyond appreciating art for its own sake.

Fred Torrisi
Education Editor

EDUCATION NEWS BRIEFS

CEA APPOINTMENT

Administrator of Education Services Trumbull Kelly has been appointed director of the Correctional Education Association (CEA) in Region VII which includes California, Arizona, and Nevada.

CEA, an affiliate of the American Correctional Association, is organized throughout the country in eight regions. According to Kelly, Region VII has not been very active in the past, but he hopes to interest more people in becoming members of the Association. "Recent federal, state, and local interest in correctional education will hopefully serve to motivate Youth Authority educators and correctional educators from other agencies to become active members of CEA," he said.

A CURRICULUM DESIGNED TO PROMOTE JOB SUCCESS

In a pilot program which began in the fall of 1977 at Preston School, students are spending time in class to help them survive in the working world. Funded by the U.S. Office of Education and developed by the American Institutes for Research (AIR), the Job Survival Skills Curriculum is designed entirely to promote employment success, according to Dr. Mark Wiederanders, YA research specialist. Students spend 50 percent of their class time in how to acquire a job and 50 percent in how to keep one. "The innovative part of the program is how to keep a job," said Wiederanders. "Extensive role-playing and use of video-taping provides dramatic feedback to wards in learning appropriate ways to resolve conflicts with bosses and co-workers."

In developing the curriculum, the nationally known consulting firm AIR worked together with Preston teachers and parole units to create materials specifically screened to be of high interest to wards. The curriculum provides teachers with a structured program complete with lesson plans for each day. It also gives teachers a non-traditional classroom situation to work with to insure more ward interest and involvement. Said Wiederanders, "It is one of the most systematically developed programs in YA history."

Jim Spears, supervisor of education at Preston, looks forward to the continued success of the program. "We've been pleased with the work AIR did in developing the package," he said.

PARENTAL INPUT TO CURRICULUM REVISION AT KARL HOLTON

Some curriculum revisions are in order at Karl Holton School, according to a questionnaire sent to all parents of Karl Holton wards. "We received a 78 percent return to the questionnaire," said Gordon Spencer, supervisor of education. The needs assessment, which was conducted over the past year and a half, indicated curriculum revision in four areas: job survival skills, reading, survival education, and vocational education. "We've

also had input from the wards themselves, teachers, and parole agents, and they support the survey made of the parents," he said.

Presently Karl Holton School is in the midst of developing goals and objectives to meet these ward needs.

CERTIFICATION—ONLY ONE ASPECT OF G.E.D. COURSES

The goal of General Education Diploma (GED) courses goes beyond mere certification of high school equivalency, according to Arthur Hecht, YTS academic teacher. "GED courses are related to every aspect of the school curriculum," he said, "and to prepare a student only for certification might rob him of his future potential."

Efforts are made at YTS to instill appreciation for course content in the GED courses. Said Hecht, "Being able to appreciate the beauty and versatility of the English language is as important as being able to read and write it." In addition, the course content in science, history, or government can be utilized in such a way as to incite curiosity for future job possibilities in those fields, he said.

NEWS NOTES FROM OUTSIDE THE CYA

NEW DEVELOPMENTS IN READING RESEARCH

According to the August 1977 issue of the *Harvard Educational Review* the most fruitful developments in the last two decades of reading research have emerged from the insights of disciplines outside of reading—psycholinguistics and linguistics. These developments prompted reading researchers to pay attention to the linguistic aspects of the reading act.

The resulting shift in focus varies according to different assumptions about what language is and the ways in which reading and language relate. One assumption views reading as a secondary process which builds from prior knowledge of the language (the ability to understand and speak the language). The other assumption considers reading and language as parallel processes, a perspective which assumes a more direct route from perception to meaning and therefore proposes instruction that stresses comprehension rather than decoding.

The purpose of the August issue of H.E.R. was to provide a forum for authors and researchers to explore the interrelationships of reading and language and their implications for education.

SUCCESSFUL IN-SERVICE EDUCATION

Why do teachers who want to improve their professional performance discourage efforts to "in-service" them?

The Phi Delta Kappa commission tried to answer the question by examining both existing and alternative in-service programs. According to the commission, successful in-service programs:

1 Make genuine efforts to identify all local needs, wants, or problems.
2 List and categorize topic similarities to determine the extent two or more needs can be met with one single in-service effort.
3 Assign priorities to topics and consider their feasibility by a decision-making group composed of teachers and administrators.
4 Insure their effectiveness by having teachers actually plan and program the training.
5 Contain a built-in evaluation.

LEAA VISITING FELLOWSHIP PROGRAM

The October 1977 Newsletter of the *Educational Resources* reported a program that supports a community of criminal justice scholars interested in projects of their own design lasting from three months to two years. Called the Visiting Fellowship Program and funded by LEAA (Law Enforcement Assistance Administration), it is open to highly qualified persons either in the criminal justice or academic professions. Each Fellow is selected on the basis of past work, potential impact of project, quality of the research design, and feasibility of carrying it out in the Washington D.C. area. Though projects are related to the current research priorities of the National Institute of Law Enforcement and Criminal Justice, emphasis is on creative, independent research of major issues relating to crime prevention and control and the administration of justice.

ARTS ARE BASIC, COUNCIL ARGUES

Arts are basic because they encourage students to use their senses argues *Coming to Our Senses: The Significance of the Arts for American Education.* The report, sponsored by the American Council for the Arts in Education, goes on to assert that the arts thus can enhance learning in general if they are seen as a tool for teaching the fundamentals and almost anything else society wishes its children to learn.

The report urges that agencies at all levels of government be created or redesigned to coordinate and contribute to arts education and that the arts and their integration into the curriculum become a regular part of preservice and in-service education for teachers and administrators.

COLLEGE FRESHMEN TURN TO ENLIGHTENED SELF-INTEREST

In 1976–77, more than half (53.1 percent) of college freshmen thought "being well-off financially" a very important goal, according to an annual survey of freshmen by UCLA and the American Council on Education. This is the first time in the survey's 11-year history that a majority of respondents have considered finances so important.

Some 328,000 freshmen at 592 two-and-four-year institutions took part in the survey.

TEACHING PAINTING USING BEHAVIORAL CONTRACTS

By Bob Brown

Mr. Brown is an arts and crafts teacher at Karl Holton School

Since coming to Karl Holton School seven years ago, I have been working towards a way to introduce art to educationally handicapped students. The primary problems of the students include lack of small motor coordination, poor visual perception, difficulty in understanding directions, poor reading skills, lack of exposure to aesthetic experiences, inability to deal with abstract ideas and concepts, lack of attention to details, and poor self-image.

Because of these problems, I have tried a variety of teaching methods from acting as a resource person with minimum structure to a completely structured program with daily demonstrations and all students working on the same project.

The result of these attempts culminated in a system which uses both Piagetian and Skinnerian ideas as its models. Briefly, the system moves a student from concrete operations through abstract, independent projects that use a series of rewards for each successive step that approximates the course goal.

When a student enters a painting class, he is given a general orientation as to how the class is set up procedurally. He then is given a course contract which shows all the steps to be completed and a brief description of the tasks in each step. This contract also shows what rewards he will receive for the total course contract and a breakdown of rewards for each step in the contract. After the student is sure he understands the course contract, both he and the teacher sign it as assurance both parties know what is expected and agree to follow through on their obligations. The understanding of expectations for the course by both student and teacher has proven to be very important to student success.

The student is then given project contract one, the first of five developmental steps. This contract is actually an entry level progress check, which in the first part contains several written questions to ascertain the skill level of the student in specific vocabulary or subject-matter facts. One such problem is: From the following colors, circle the three colors which are primary colors: red, blue, orange, white, yellow.

The second part of the entry level progress check consists of some tasks related to painting. The student is asked to mix some specific colors and to develop and paint a design of his own. This progress check serves two purposes. First, the student is rewarded for completing the tasks and gaining recognition for minimal success in new and often threatening skill areas. Moreover, this immediate success motivates the student to attempt other new and more difficult tasks which are to follow in the upcoming steps. Secondly, the progress check allows the teacher to observe specific strengths and weaknesses which are taken into account in approximating success in the next few steps.

In addition to a specified reward (points toward credit and token economy money), the student is also given a tangible, social reward for completing the first contract. Such a reward might be: "John, your work was very neat," or "John, you followed directions very well." It is now explained to the student that he can negotiate for other specific rewards for continued success and improvement in the contracts that follow.

With the student now having had the expectations and procedures explained and having successfully demonstrated his understanding of the process by completing the first step, he is now ready to move on. In the next and subsequent contracts, more will be expected of the student as he gradually moves away from tangible rewards to intrinsic motivation. Each step builds the necessary skills for the following steps. Moreover, as skills are developed, student input in decision-making increases to utilize knowledge gained from previous steps.

Project contract number two deals with the development of skills in recognizing and using color. Three charts are made to show primary and secondary colors, how color mixes with black and white, and finally developing a color matrix based on mixing numerous colors from the three primary colors. The student is given a model with a clear layout and specific dimensions to work from. Following directions and paying attention to details are emphasized in developing the student's vocabulary of color.

Project contract number three engages the student in considerations of design. It is divided into two parts. First, the student makes a chart showing how specific colors relate to each other in proximity. Secondly, the student uses his newly acquired skills to mix single colors and color relationships and to develop a simple geometric design. At this point the student begins to explore shape and use of color as integral parts of design.

In the fourth step the contract again has multiple objectives. One is to develop student initiated designs. Another is to give the student experience in several different painting media using the color and design skills previously developed. In the fulfillment of this contract, the student develops six sketches or small paintings in each of the folowing media: water color, tempera, and acrylic paints. In addition, he is encouraged to make additional sketches in color pencil, crayons, felt pens, and pastel chalk.

In the fifth and final contract, the student develops his own contract within limits. An independent project is first negotiated with the teacher. The student then chooses the media and subject matter and works from a sketch approved by the teacher. The contract may involve one large or very detailed painting or several smaller, simpler projects.

In developing a program of this nature, I was concerned with two goals: to hold student interest and to improve the level of skills in both the design and aesthetic areas of painting. Although it is still being regularly reviewed and revised, this system has come considerably closer to meeting these goals than any other I have experienced.

In sum, the key to this success seems to be (1) the breaking down of skills into small measurable objectives, (2) the rewarding for successful completion of tasks in each skill area, and (3) the use of steps, each one building on the preceding step until the terminal goal is reached.

THEORY VERSUS EXPERIENCE IN VOCATIONAL EDUCATION

By Donald E. Iten

Mr. Iten is a print shop instructor at Karl Holton School

In every area of vocational education, there is a need for competent instructors. The question is where are they to be found? Do they come from teachers' colleges or from industry itself? Unfortunately, a polarity exists today concerning this question.

At one pole there are instructors with backgrounds in educational theory and practice coupled with a layer of training in trade techniques. They are products of teacher colleges who have had little exposure to actual shop experience or have never held a full-time job in a trade establishment. At the other pole are instructors who have had full-time experience in an industrial establishment committed to reduce costs and squeeze profits. In this category, for example, an instructor has had the experience of reaching for his coat at the end of a busy day and is suddenly told to work overtime to get out a rush job. The ability to cope with this and similar situations distinguishes the industrial professional from the educational theorist.

The instructor trained in college has had the advantage of a hothouse atmosphere. The trade for which he is being trained has been presented as a logical and well-organized activity—which it should be if everything were ideal. If things go wrong, there are frustrating delays and mishaps. But the average school environment is not generally set up to take such situations into consideration. Future vocational instructors simply do not undergo the sort of trade experience that working in a shop would give them.

When the student instructor is "farmed out" to industry, the experience he gains is not the same as that of a regular full-time worker. He is a "guest" in the shop, and his presence is not "for real." Admittedly, the student instructor learns much from this experience, but there is never that feeling of being an actual participant in the reality of the shop activity. Even if the shop were to collapse under his feet, the student knows he can make the jump back into the security of the school environment. As well-educated and trained as the college graduate may be, there is something valuable lacking—the lessons learned through experience.

On the other hand, there is the vocational instructor who comes up from the ranks. Although he may not have had the benefit of a systematic background in the history and philosophy of education, this person does have a grasp of the actualities of shop practice—lessons learned through experience.

Unfortunately, this type of vocational instructor is often uncomfortable with the teaching regimen itself. The necessity of keeping multitudinous records, of presenting an attractive instructional format for students, and of maintaining good public relations, may be irksome for the person whose

accustomed milieu has been the frankness (and often the abruptness) of the shop. Not everyone (no matter how well qualified in other ways), has the patience, the forbearance needed for teaching students in a particular trade.

Moreover, the personality problems of students must also be taken into consideration along with the subject matter. The up-from-the-ranks vocational instructor tends to take motivation for granted. Why else would a student take a course, other than that he was intensely interested in the particular trade. So runs the thinking of the vocational instructor from the shop. Used to the "life is real, life in earnest" atmosphere of the bustling shop, the vocational instructor who has come through this route is prone to show impatience with the student whose motivation and interest are not the highest.

Ideally, the vocational instructor should have a formal education at least to the baccalaureate level for the intellectual breadth it should give, have practical on-the-job experience, and have the personality demanded of a teacher.

Even if instructors with these demanding qualifications could be found —and many have—there is the problem presented by personal bias and training which favors certain aspects of a given trade. In printing, for example, certain instructors tend to stress the pre-press area; others, press work. Generally, the finishing area tends to be neglected. For these and other reasons, vocational education needs constant monitoring. Fortunately, there are forces at work to upgrade vocational education, and to bring it in line with industry practice.

Because vocational education developed in pretty much of a haphazard manner, until recently, there was no appreciable link with higher education. The highest educational level at which the vocational instructor operated was high school, and even at that level he was considered to be a "nuts and bolts" person, instructing those students who could not make the academic programs. The shop student, who attended his courses and was euphemistically termed an "industrial arts" student, was definitely at the bottom of the scholastic heap. The shop program became a catch-all for academic underachievers. With advancing technology and the increasing sophistication of industry, the "strong back, weak mind" stigma of the shop has been out-dated. Today's industrial worker is required to be alert and technically trained to a degree that approaches the training of a worker in the professions. And this is necessarily true of the future vocational instructor.

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